

Remarks/Arguments

I. Status

The Office Action dated October 25, 2007 (the “Office Action”), has been carefully reviewed. Claims 4-9, 11-12, 15-30 and 32-37 have been canceled. Claims 1 and 31 have been amended and claims 38-53 have been added. Reconsideration of this application is respectfully requested.

II. 35 U.S.C. § 102 Rejection.

Claims 1-3 and 13 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,602,292 to Burkinshaw (hereinafter “Burkinshaw”) and claim 31 was rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,019,104 to Whiteside et al. (hereinafter “Whiteside”). Reconsideration of these claims in view of the following remarks is respectfully requested.

Discussion Re: Patentability of Claim 1

1. Claim 1

Claim 1 recites:

A patellar prosthesis comprising:
a first subcomponent;
a boss operably connected to the first subcomponent; and
a second subcomponent movably connected to the first subcomponent with the boss, the second subcomponent comprising,
a first side, the first side having (i) a channel therein, (ii) a boss retaining region operable to retain the boss within the channel when the boss is inserted into the channel by contacting the boss, and (iii) a boss assembly region operable to facilitate the insertion of the boss into the channel, wherein the boss passes through the boss assembly region for insertion into the channel, by allowing the boss to pass through the boss assembly region for insertion of the boss into the channel.

Claim 1 thus recites a subcomponent of a patellar prosthesis that includes a boss-receiving channel and a “boss assembly region” used when moving the boss into the channel.

2. Burkinshaw Does Not Disclose the Limitations of Claim 1

The Examiner cited to the component of Burkinshaw identified by the reference number 44 as disclosing a boss assembly region. (Office Action at page 2). The claim has been amended to further clarify that a “boss assembly region” is a region through which a boss is moved when inserting the boss into the channel. Burkinshaw does not disclose a boss assembly region.

Specifically, the reference number “44” of Burkinshaw designates the “articulation surface 44” of the Burkinshaw device. (Burkinshaw at column 4, lines 1-7). The boss of Burkinshaw does not “pass through” the saddle shaped articulation surface of Burkinshaw for insertion into a channel.

Anticipation under 35 U.S.C. § 102 is proper only if the prior art reference discloses each and every element of the claim. Since Burkinshaw does not disclose each and every element of Applicant’s claim 1, Burkinshaw does not anticipate claim 1.

3. Conclusion

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claim 1 as being anticipated by Burkinshaw has been successfully traversed,

and the Applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. § 102 should be withdrawn.

Discussion Re: Patentability of Claims 2-3 and 13

Each of claims 2-3 and 13 depend from claim 1, either directly or by way of one or more intermediate claims, and include the limitations discussed above with respect to claim 1 and additional limitations. Therefore, for at least the same reasons set forth with respect to claim 1, claims 2-3 and 13 are patentable over Burkinshaw.

Discussion Re: Patentability of Claim 31

1. Claim 31

Claim 31 recites:

A patellar replacement component base comprising:
a generally planar bone contacting surface lying in a first plane;
a dome shaped contact surface for contacting a patellar articulating component
and located generally opposite the bone contacting surface; and
a boss having a stem extending from the dome shaped articulating component
contact surface along an axis, the axis of the stem intersecting the bone contacting surface
plane at an angle of other than 90 degrees.

Claim 31 thus recites a base component that 1) contacts a bone, and 2) has a domed surface for contacting the articulating component of the patellar replacement.

2. Whiteside's Articulation Portion is Not a Base Component

The Examiner cited to the component of Whiteside identified by the reference number 15 as disclosing a dome shaped articulating component contact surface. (Office Action at page 3). The claim has been amended to further clarify that base component

includes a dome shaped contact surface which contacts the articulating component of the patellar replacement. Whiteside does not disclose such a dome shaped surface.

Specifically, the reference number “15” of Whiteside designates the “polymeric articulating surface portion 15” of the Whiteside device. (Whiteside at column 2, lines 25-37 and FIG. 2). The polymeric articulating surface 15 of Whiteside is thus the articulating component itself, not a component of the base that is in contact with the articulating component. Therefore, Whiteside does not disclose a dome shaped base component as recited in claim 31.

Anticipation under 35 U.S.C. § 102 is proper only if the prior art reference discloses each and every element of the claim. Since Whiteside does not disclose each and every element of Applicants’ claim 31, Whiteside does not anticipate claim 31.

3. Whiteside’s Stem is at 90 Degrees

Moreover, the Examiner has alleged that the “stem” of Whiteside discloses the stem recited in claim 31. Specifically, the Examiner identified the “lip” of the central peg 16 as a portion of the peg 16 that was not perpendicular to the bottom of the metal supporting layer 12. Claim 31 has been amended to clarify that the *axis* of the stem is not perpendicular to the bone contacting surface of the base component. The *axis* of the central peg 16 of Whiteside *is perpendicular* to the metal supporting layer 12. Accordingly, Whiteside does not disclose a stem as recited in claim 31.

4. Conclusion

For any or all of the foregoing reasons, it is respectfully submitted that Whiteside does not disclose each element of claim 31, and the Applicants respectfully submit that the rejection of claim 31 under 35 U.S.C. § 102 should be withdrawn.

III. 35 U.S.C. § 103 Rejections.

Claims 10 and 14 were rejected under 35 U.S.C. § 103 as being unpatentable over Burkinshaw as merely reciting a reversal of parts. Claims 10 and 14 depend from claim 1 and include all of the limitations of claim 1. Claims 10 and 14 further recite limitations that are not disclosed by Burkinshaw. Nonetheless, even if the reversal of parts of Burkinshaw disclosed the limitations recited in claims 10 and 14, such modification fails to correct the deficiencies of Burkinshaw discussed above with respect to claim 1. Accordingly, claims 10 and 14 are patentable over Burkinshaw for at least the reasons set forth above with respect to claim 1.

IV. New Claims

Claims 38-53 have been added. Each of claims 38-41 depends from claim 31 and incorporates all of the limitations of claim 31. Each of claims 38-41 add further limitations disclosed in the Applicants' specification at paragraph 95. Accordingly, each of claims 38-41 is patentable over the cited art for at least the reasons set forth above with respect to claim 31. Claims 42-53 include limitations similar to the limitations of either claim 1 or claim 31. Accordingly, each of claims 42-53 is patentable over the cited art for at least the reasons set forth above with respect to either claim 1 or claim 31.

V. Conclusion

A prompt and favorable action on the merits is respectfully requested.

Respectfully submitted,

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